

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KYLE BROOKS,

Defendant.

CR 18-21-BU-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on November 1, 2018. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Kyle Brooks’ guilty plea after Brooks appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to conspiracy to distribute controlled substances in

violation of 21 U.S.C. § 846 (Count I) and possession with intent to distribute heroin in violation of 21 U.S.C. § 841(a)(1) (Count II) as set forth in the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 42), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Kyle Brooks' motion to change plea (Doc. 26) is GRANTED and Kyle Brooks is adjudged guilty as charged in Counts I and II of the Indictment.

DATED this 26th day of November, 2018.



Dana L. Christensen, Chief District Judge
United States District Court